



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06
The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

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'Submission of the Registrar Pursuant to Rule 23(2) on COVID-19 Risk Mitigation Measures', filing F00063 dated 8 November 2020

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I. INTRODUCTION

1. Pursuant to Rule 23(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ('Rules')¹, the Registrar hereby submits representations to the Pre-Trial Judge on risk mitigation measures with regard to the novel coronavirus ('COVID-19') on the conduct of proceedings involving Mr Hashim Thaçi, Mr Kadri Veseli, Mr Rexhep Selimi, and Mr Jakup Krasniqi (collectively, 'the Accused').

II. PROCEDURAL HISTORY

2. On 26 October 2020, the Pre-Trial Judge issued a strictly confidential and *ex parte* decision ('Decision') granting the request of the Specialist Prosecutor's Office ('SPO') for the arrest and transfer of the Accused to the Detention Facilities of the Specialist Chambers ('Detention Facilities') in the Netherlands ('Host State').²

3. On 4 and 5 November 2020, the SPO arrested the Accused in Kosovo.³ Following the execution of the transfer orders, the Accused were received in the Detention Facilities on 4 and 5 November 2020.⁴

¹ Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, as amended on 29 and 30 April 2020 ('Rules').

² Decision on Request for Arrest Warrants and Transfer Orders, KSC-BC-2020-06/F00027, 26 October 2020, strictly confidential and *ex parte*.

³ Notification of Arrest of Hashim Thaçi Pursuant to Rule 55(4), KSC-BC-2020-06/F0051, 5 November 2020, strictly confidential and *ex parte*; Notification of Arrest of Kadri Veseli Pursuant to Rule 55(4), KSC-BC-2020-06/F0050, 5 November 2020, strictly confidential and *ex parte*; Notification of Arrest of Rexhep Selimi Pursuant to Rule 55(4), KSC-BC-2020-06/F0049, 5 November 2020, strictly confidential and *ex parte*; Notification of Arrest of Jakup Krasniqi Pursuant to Rule 55(4), KSC-BC-2020-06/F0044, 4 November 2020, strictly confidential and *ex parte*.

⁴ Notification of Reception of Hashim Thaçi in the Detention Facilities of the Specialist Chambers and Appointment of Counsel, KSC-BC-2020-06/F00053, 5 November 2020, strictly confidential and *ex parte*; Notification of Reception of Kadri Veseli in the Detention Facilities of the Specialist Chambers and Appointment of Counsel, KSC-BC-2020-06/F00054, 5 November 2020, strictly confidential and *ex parte*; Notification of Reception of Rexhep Selimi in the Detention Facilities of the Specialist Chambers, KSC-BC-2020-06/F00055, 5 November 2020, strictly confidential and *ex parte*; Notification of Reception of Jakup Krasniqi in the Detention Facilities of the Specialist Chambers, KSC-BC-2020-06/F00048, 4 November 2020, strictly confidential and *ex parte*.

III. DISCUSSION

4. This submission includes information regarding the COVID-19 risk mitigation measures: (a) in the Netherlands ('Host State'), with a particular focus on travel restrictions and self-quarantine measures; (b) in the Detention Facilities of the Specialist Chambers ('Detention Facilities'), including during transport to and from the premises of the Specialist Chambers and Specialist Prosecutor's Office ('Premises') at Raamweg 47; and (c) in the courtroom of the Specialist Chambers ('Courtroom').

A. HOST-STATE

5. The government of the Host State has temporarily imposed measures tightening the partial lockdown in the Host State effective from 22:00 on 4 November up to and including 18 November 2020.

6. The basic rules that currently apply to everyone in the Host State are to: stay at home as much as possible and avoid non-essential travel within the Host State; get tested if you have symptoms of COVID-19; work from home unless there is no other option; wear a face mask in indoor public spaces and on public transport if you are aged 13 or over; stay 1.5 metres away from other people and observe the basic hygiene measures, such as regular hand-washing.⁵

7. Additionally, there is a general ban on gatherings of more than 30 people in independent spaces, with some exceptions, including for international organisations that are a party to a treaty with the Host State.⁶

⁵ See Ministry of Foreign Affairs, Protocol Department, Note Verbale, DPG-Min-BuZa.2020.5891-28, 5 November 2020; see also Government of the Netherlands, "Coronavirus COVID-19", <https://www.government.nl/topics/coronavirus-covid-19> (last visited 6 November 2020); Haaglanden Veilig, "Actuele informatie maatregelen" (in Dutch), <https://haaglandenveilig.nl/actuele-informatie-maatregelen> (last visited 6 November 2020).

⁶ See Veiligheidsregio Haaglanden, "Noodverordening COVID-19 veiligheidsregio Haaglanden 4 november 2020" (in Dutch), art. 2.1, available at <https://haaglandenveilig.nl/sites/default/files/2020-11/Noodverordening%204%20november%20definitief.pdf>.

1. Travel restrictions for travellers from Kosovo

8. As a general matter, the government of the Host State strongly advises against travel to the Host State unless it is strictly necessary.⁷

9. The Host State has certain travel restrictions in place for travellers from outside of the European Union ('EU'). Currently, the Host State and other EU and Schengen countries, as well as the United Kingdom of Great Britain and Northern Ireland ('UK'), have closed their external borders to people whose travel is not essential, with some exceptions.

10. The travel ban does not apply to, *inter alia*, persons who work for international organisations.⁸ [REDACTED].

2. Quarantine for travellers from Kosovo

11. On arrival in the Host State, travellers from outside of the EU, including those travelling from Kosovo, must self-quarantine for 10 days upon arrival.⁹ This applies even to persons who do not have symptoms and to persons who have tested negative for COVID-19, whether before or immediately after arrival in the Host State.¹⁰

12. [REDACTED].

13. [REDACTED].

14. [REDACTED].

3. Temporarily leaving self-quarantine

15. If absolutely necessary, other travellers are also allowed to leave the 10-day self-quarantine for certain purposes, as long as they do not have symptoms of COVID-19.

⁷ See Government of the Netherlands, "Traveling to the Netherlands from Abroad", <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/travel-and-holidays/visiting-the-netherlands> (last visited 8 November 2020).

⁸ See [REDACTED]; see also Rijksoverheid, "Naar Nederland reizen: Ik ben een zakenreiziger" (in Dutch), <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/reizen-en-op-vakantie-gaan/buitenlandse-toeristen-naar-nederland> (last visited 6 November 2020).

⁹ For travel advice related to Kosovo, see the website of Koninkrijk der Nederlanden, "Reisadvies Kosovo" (in Dutch), <https://www.nederlandwereldwijd.nl/landen/kosovo/reizen/reisadvies> (last visited 6 November 2020).

¹⁰ See Government of the Netherlands, "Self-Quarantine upon arrival in the Netherlands", <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/travel-and-holidays/self-quarantine> (last visited 6 November 2020).

For example, travellers may temporarily leave self-quarantine for the purpose of necessary work for designated international organisations, such as the Kosovo Specialist Chambers and Specialist Prosecutor's Office.¹¹ Except for this specific purpose, travellers must still comply with the rules for self-quarantine. For example, they must not take public transport and must avoid social contacts.

B. DETENTION FACILITIES

16. The Medical Officer regularly advises the Registrar and the Chief Detention Officer on public health measures in the Detention Facilities.

17. The Detention Facilities are located within [REDACTED] the Host-State prison, PI Haaglanden ('Prison'). [REDACTED].

1. Public health measures

18. Since the outbreak of the pandemic, the Medical Officer¹² has continuously provided advice [REDACTED] to safeguard and promote the health of detainees during the pandemic. [REDACTED].¹³

19. [REDACTED].

20. [REDACTED].

2. Visits with Detainees

21. [REDACTED].¹⁴

22. Video visits with Counsel are strongly encouraged; nevertheless, in-person visits with Counsel that are of vital necessity are also permitted in the Detention Facilities.

23. In order to protect the health of Detainees and others in the Detention Facilities, no more than two visitors at a time are permitted to attend an in-person Counsel

¹¹ See Government of the Netherlands, "When you don't have to self-quarantine (stay at home)", <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/travel-and-holidays/when-you-dont-have-to-self-quarantine> (last visited 6 November 2020).

¹² Pursuant to Detention Rule 2.2, "Medical Officer" is defined as: "The responsible treating physician at the Detention Facilities, his or her deputy, or any other physician hired by competent authorities of the Host State for the purpose of providing medical treatment to a Detainee".

¹³ Annex 1: [REDACTED].

¹⁴ [REDACTED].

visit.¹⁵ Counsel are also required to answer public health questions and undergo a temperature check before being allowed entry into the Detention Facilities.¹⁶ Furthermore, Counsel are required to wear personal protective equipment ('PPE') while in the Detention Facilities, including for the duration of their visits, to disinfect their hands upon entry and observe other hygienic measures, and to observe a certain physical distance from Detainees and others.

24. On advice of the Medical Officer, the Registrar has temporarily restricted in-person visits with family members and other personal visitors in the Detention Facilities. In lieu of in-person visits, the Registrar has authorised video visits with Close Relatives of Detainees.¹⁷

3. Transport to and from court hearings

25. In order to limit external contact, the external transport of Detainees is limited to special and urgent circumstances. In those circumstances, the transport service of the Host State Prison Service ('DV&O') has put in place preventative measures for transport of Detainees to and from court hearings that are in line with the Host State measures.

26. [REDACTED].

C. COURTROOM

27. On the Premises at Raamweg 47, the risk mitigation measures are in line with Host State measures. For example, building occupancy levels are capped to enable physical distancing, and communal areas such as the staff and public entrances are also configured to comply with the 1.5-metre distancing principle. Walkway instructions and hand sanitising stations are also clearly visible upon entry and

¹⁵ See Registry Instruction on General Restrictions on Visits Due to COVID-19, KSC-BD-35, 23 September 2020, sect. 5.1.

¹⁶ See Detention Management Unit ('DMU') Instruction on Security Requirements to Enter the Detention Facilities, KSC-BD-32, 23 September 2020, sect. 11.

¹⁷ Registry Instruction on General Restrictions on Visits Due to COVID-19, KSC-BD-35, 23 September 2020; Registry Instruction on Video Visits, KSC-BD-34, 23 September 2020.

throughout the Premises, as well as cleaning instructions and cleaning stations in communal areas. The use of face masks for all personnel is obligatory while away from workstations, while transiting throughout the building, and in the common areas.

28. In terms of risk mitigation, the Courtroom and the Detention Facilities have the technical capability to provide two secure video-conferences broadcasting simultaneously in the Courtroom. In addition, the risk mitigation measures in the Courtroom itself are also in line with Host State measures. They include basic hygiene measures, such as hand sanitising before entry and exit and sanitising of equipment and furnishings before the start of each hearing and during any break between cases.

29. Courtroom seating has been reconfigured to maintain physical distance of 1.5 metres, along with the installation of glass shields. If those in the Courtroom cannot maintain 1.5-metre distance (for example if conferring with each other), a non-medical face mask must be worn.

30. No adjustment to the Judges' bench is required for hearings by the Pre-Trial Judge. Likewise, interpreter booths are wide enough to maintain the appropriate physical distance. In the holding cells at Raamweg 47, a glass partition has been installed in the Counsel visiting room.

31. The public gallery has been reconfigured to allow for a maximum of 20 seated guests, plus one wheelchair. In addition, the press area has been configured to facilitate a maximum of 14 persons in the press briefing area and an additional maximum of 6 persons at workstations in the media room.

32. Visitors to the Premises, including media, are required to pre-register and will be required to answer public health questions before being admitted to the Premises.

33. In the public entrance to the Courtroom, the registration and waiting areas, the public gallery, and the press area, 1.5-metre distancing and the wearing of non-medical face masks is required at all times.

D. CLASSIFICATION

34. This submission and its Annex are filed confidentially pursuant to Rule 82(1)(b) and (3) of the Rules, as they contain personal health-related information, information on internal Registry procedures, and information on consultations and communications with external parties, which carry a reasonable expectation of privacy and non-disclosure.

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Dr Fidelma Donlon

Registrar

Wednesday, 18 November 2020

At The Hague, the Netherlands